

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:	§	
	§	
HELIA TEC RESOURCES, INC.	§	CASE NO. 13-36251
	§	
Debtor	§	
	§	CHAPTER 11

PLAN AGENT’S MOTION REQUESTING PLAN AMENDMENT

NOTICE PURSUANT TO LOCAL RULE 9013

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED.

IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

1. Heather R. Potts (“Potts”), plan agent in the above-captioned estate, files this Motion Requesting Plan Amendment (the “Motion”).

2. Section 9.4 of the Debtor’s Chapter 11 Second Amended Plan of Liquidation [Doc. No. 137] (the “Plan”) requires a party with a claim for damages arising from the rejection of an executory contract or an unexpired lease to file a proof of claim no later than twenty (20) days following the earlier of (1) the date of entry of an order of the Bankruptcy Court approving

such rejection or (2) the Effective Date of the Plan.¹ In conjunction with this provision, the Plan requires the Plan Agent to mail a notice to all known affected parties and to publish a notice in the *Houston Chronicle* of (1) the Debtor's rejection of executory contracts and unexpired leases and (2) the deadline for asserting claims for damages arising from the rejection of such executory contracts and unexpired leases. The Plan does not include a specific deadline for this action by the Plan Agent.

3. Subsequent to the confirmation of the Plan, Potts spoke with certain individuals involved with the Debtor and reached the conclusion that the only claim existing related to rejection damages was the claim to be asserted by Richard A. Battaglia, P.C. and Dow Golub Remels & Beverly, LLP. ("Battaglia"). Battaglia has filed a claim based upon the rejection of the contingency contract.

4. Potts is aware of no other party that (1) has a basis for filing a rejection claim resulting from the rejection of an unexpired lease/executory contract and (2) intends to file a claim. Nonetheless, upon reconsideration and out of an abundance of caution, Potts desires to mail a notice (in the form of a court order) to all creditors in this case regarding a revised deadline for the assertion of such a claim. Potts believes that the nature of this case and the pool of potentially eligible creditors to which such notice may be relevant do not warrant publishing a notice in the *Houston Chronicle*.

5. In light of Potts' revised course of action, Potts seeks an amendment to the Plan. Potts is authorized to seek amendment to the Plan pursuant to Section 7.5.12 of the Plan.

6. Potts requests that the Plan be amended by the issuance of a court order that supplants Section 9.4 of the Plan. A copy of a proposed form of order is attached to this Motion.

¹ The exact language references the Effective Date of the *First* Amended Plan; however, Potts assumes the Plan intends to reference the *Second* Amended Plan.

7. In light of the forgoing, Potts requests that the Court grant her the requested relief.
Potts requests such other and further relief as is just.

DATED the 3rd day of September 2015.

Respectfully submitted,

By: /s/ Heather R. Potts
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Plan Agent

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document will be served, via USPS mail, on all parties identified on the attached sheet on September 4, 2015 (individuals and/or entities accompanied by an asterisk will not receive service as previously sent mail has been returned undeliverable). Parties receiving electronic service (via Pacer) will receive service on September 3, 2015.

/s/ Heather R. Potts
HEATHER R. POTTS